IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

ANDREW WILLIAM PANKOTAI	:
	: CIVIL NO. 4:16-CV-0004
	:
Plaintiff,	:
	:
vs.	: (JUDGE BRANN)
	: (MAG. JUDGE SAPORITO)
NORTHUMBERLAND COUNTY	:
COURTHOUSE, et al.	:
	:
Defendants:	: (ELECTRONICALLY FILED)

DEFENDANT LINCOLN'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT PURSUANT TO F.R.C.P. 12(b)(6)

AND NOW comes the Defendant, Kathleen Ann Lincoln (hereinafter, "Lincoln"), by and through her undersigned counsel, Dougherty, Leventhal & Price, LLP, and hereby file this Motion to Dismiss Plaintiff's Complaint pursuant to Fed.R.Civ.P. 12(b)(6) and aver as follows:

1. On January 4, 2016, Plaintiff instituted this action by filing a *pro se* Complaint in the United States District Court for the Middle District of

Pennsylvania against several Defendants, including the moving Defendant, alleging his civil rights had been violated (Doc. 1).

2. Plaintiff also filed a Motion for Leave to Proceed *in forma pauperis* on January 4, 2016. A review of the docket reflects that Plaintiff's motion was granted on February 10, 2017.

3. On April 4, 2017, Defendant Lincoln filed a Waiver of Service of Summons thereby making her responsive pleading due on or before April 11, 2017.

4. Defendant Lincoln hereby move for the dismissal of the Complaint pursuant to F.R.C.P. No. 12(b)(6) on the grounds that the Plaintiff's Complaint fails to state a claim upon which relief can be granted. The grounds upon which this Motion is based will be fully outlined in the Moving Defendant's supporting brief which will be filed pursuant to Local Rule 7.5.

5. Moving Defendant attempted to contact plaintiff regarding his concurrence; however, as of the date that this Motion is filed, no response was made thereto and it is assumed that Plaintiff does not concur.

6. Undersigned counsel also contacted counsel for the Co-defendants all of whom concur in the filing of this motion as evidenced by the attached Certificate of Concurrence/Non-Concurrence.

WHEREFORE, Defendant Lincoln respectfully requests that this Honorable Court issue an Order dismissing Plaintiff's Complaint as it pertains to her.

Respectfully submitted,

DOUGHERTY, LEVENTHAL & PRICE, L.L.P.

By: s/Sean P. McDonough
____

Sean P. McDonough, Esquire
Attorney for Defendant Lincoln
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CERTIFICATE OF NON-CONCURRENCE/ CONCURRENCE

I, Sean P. McDonough, Esquire, attorney for Defendant Lincoln, hereby certify that I attempted to contact Plaintiff regarding his concurrence in this motion; however, as of the date of filing, he was unavailable and it is assumed that he does not concur.

I hereby certify that I contacted the following counsel for the Co-defendants in this matter and they all concur in the filing of this motion:

Christine E. Munion, Esquire
Martha J. Gale, Esquire
J. Timothy Hinton, Esquire

Date: April 4, 2017

s/Sean P. McDonough
Sean P. McDonough, Esquire

CERTIFICATE OF SERVICE

I, SEAN P. McDONOUGH, ESQUIRE, hereby certify that on the 12th day of April, 2017, I served the foregoing MOTION TO DISMISS, upon the persons indicated below as follows:

Via first class mail, postage prepaid

Andrew William Pankotai
319 East 7th Street
Mount Carmel, PA 17851
pro se

Via electronic filing

J. Timothy Hinton, Esquire
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(Counsel for Defendant Cole)

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Martha J. Gale, Esquire
Administrative Office of PA Courts
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martha.gale@pacourts.us

Respectfully submitted,

DOUGHERTY, LEVENTHAL & PRICE, L.L.P.

s/Sean P. McDonough

SEAN P. McDONOUGH, ESQUIRE
Attorney for Defendant Lincoln
PA ID# 47428